

August 11, 2003

PUBLIC ADMONITION

OF

**THE HONORABLE VERONICA M. ROBY
JUDGE OF ELWOOD CITY COURT**

The Indiana Commission on Judicial Qualifications, having determined that formal disciplinary charges are warranted, issues instead this Public Admonition of the Honorable Veronica M. Roby, Judge of the Elwood City Court. This Admonition is issued pursuant to Supreme Court Admission and Discipline Rule 25 VIII E(7) with Judge Roby's consent and in lieu of proceeding to formal disciplinary charges and a hearing. Although some factual issues are in dispute, the Commission and Judge Roby have determined that the matter adequately may be resolved with this Admonition.

First, the Commission admonishes Judge Roby for violating Canon 2B of the Code of Judicial Conduct which prohibits judges from using the power of the judicial office to advance their own or others' private interests. In November, 2001, an Elwood man was arrested for public intoxication and contributing to the delinquency of a minor, and charges were filed in Judge Roby's court. He entered a plea of not guilty, and Judge Roby set a hearing date for March 12, 2002. In early February, 2002, Judge Roby became acquainted with the defendant and a personal relationship ensued.

Judge Roby states that she asked a member of her court staff to make a record showing the judge was disqualified from the defendant's case; however, there is no record of any judicial action to that effect. On March 12, 2002, a Madison County Deputy Prosecutor was in the Elwood City Court. He and Judge Roby had a conversation about the charges against the man she then was dating. Whether Judge Roby advised the deputy prosecutor that she was dating the defendant, and whether she indicated to him she believed she was disqualified from the case, are two factual issues in dispute. However, Judge Roby suggested to the prosecutor, or, according to him, directly asked him, to dismiss one or both of the charges against her friend. Judge Roby states she simply believed the probable cause affidavit on the charge of contributing to the delinquency of a minor did not support the

charge, and denies she suggested dismissal of the public intoxication charge. In response to Judge Roby's request or suggestion, the deputy prosecutor entered the courtroom and announced in open court, with Judge Roby presiding, that he was dismissing both charges. Judge Roby testified in a sworn statement to the Commission that, in suggesting to the deputy prosecutor that the case be dismissed, she was acting on the defendant's behalf as well as on behalf of the alleged victim, who, Judge Roby had been advised, did not want the defendant to face the charge of contributing to a minor.

Whether or not Judge Roby advised the deputy prosecutor of her personal interest in the defendant, she misused the power of the judicial office by interjecting her opinion and using her influence in his case. The fact that she states she intended to not preside over the case does not mitigate the misconduct; as judge, and absent a personal interest in the case, it would have been within the bounds of her authority, in an open judicial proceeding, to question the basis of the "contributing" charge. However, her position is that she was acting in her personal capacity; judges may not interfere in or attempt to influence the outcomes of cases to suit their personal opinions or interests.

The Commission also admonishes Judge Roby for a separate violation of Canon 2B of the Code of Judicial Conduct and for violating Canon 3C(4), which states a judge should avoid nepotism and favoritism. The Admonition stems from the fact that in January, 2002, Judge Roby's brother was hired into the court's probation department. In 1998, the Commission issued an Advisory Opinion in which it set out guidelines and restrictions for judges considering hiring relatives or friends. In that opinion, Indiana judges were advised to contact the Commission to discuss the potential employment of relatives. Judge Roby did not do so. Had she contacted the Commission, she would have been advised that the close degree of the relationship to her brother and, most importantly, the fact that they reside together prohibited his employment with the court's probation department. The fact that Judge Roby and her brother reside together, and share household expenses, suggests that his employment with the court benefited her financially. Therefore, hiring him also constituted a violation of Canon 2B – the improper use of the court's power to advance her and his private interests.

This Admonition concludes these proceedings against Judge Roby.

Questions about this Admonition may be directed to Meg Babcock, Counsel to the Commission, at (317) 232-4706, or to Judge Veronica Mia Roby.